G R S App I IX 4]

1943 -

(M)

File No 120-42

Previous References

Serial Nos 146, 159

Later References

M 52-44-1/2 -

GENERAL AND REVENUE SECRETARIAT

Serial Nos 2

Part B for March 43

SUBJECT

Election to the Bangalore City MLC

---

2 Mr A K Jayamuthu Raju, Bloreag-
L 8235 dt 18 2 43
State that the Govt Council - interfere
the matter

Petn dy 18-1-43 from
Mr AK Jayamuthu Raju.
MLC, Doddapalya, Mysore
Road, Bdy, praying to
notice that 16th Jany 43
should have been fixed for
hearing objections preferred
by the contesting candidates
for the bye-election fixed
on 31-1-43 in the city
mcl cl. instead of 15-1-43.

1) A copy of the letter addressed
to the mcl Comm. and the
Returning Officer has
been submitted to the
~~Last Secy:- for~~
~~orders whether any action~~
~~is to be taken thereon.~~

On a similar petition
presented by the residents
of Bangalore city, the
Minister for L.S.G. & P.H.
was pleased to order as follows.
"A note may be put up
to me in the matter."

2) Four Vacancies have

N B – Should routine notes be written on small slips the notes must be copied or slips pasted on this form

WD 078—GPB—30 000—25-7-40

occured in the city mcl
consequent on the resignation
tendered by Mr. B Narasimhaiah
& Dr Miss Kamala Ramachandraiah
& the disability incurred
under section 12(2)(c)
(non payment of taxes)
by Messrs N Keshaviengar
& M.R Honnappa. &c

3 The mcl Commr, as the Returning
Officer has issued the Calendar
fixing the date 31-1-43 for the
said election. 12th January 43
was the date fixed for receiving
& publishing applications of
candidates who stand for
election & 15th January 43 for hearing
& disposing of objections if any,
to candidature under Rule 15(1)
of the city mcl election rules.

4 The Petitioners contend
that as 14th January 1943
was a general holiday, 16th
January 43 should have been
fixed for hearing objections
& the date fixed by the Returning
Officer, viz 15th January 1943

5121 pur 43300 4379 44160 4430

Continuation Sheet MC File No / Current No of 42043 Page 3

is not correct and the proceedings taken thereon will be defective and illegal

5 In rule 15(1) of the cyclo mc election rules it is stated that the third working day after the date of the publication of the notice, the objections will be heard.

6 In fixing the 3rd working day, intervening holidays were have perhaps to be excluded

7 The Law section will also be consulted

Submit for orders

11/12 25/1 SS 25/1 8 Two other petitions received since from mr AK Jayatunga on the same subject are also put up herewith

9 There is some force in the contention of the petitioner that, in calculating the third working day, the intervening holidays should be excluded - vide Chap II (Calendar of events) 14.1.43

10 The Law section may also be consulted in the matter

Date of election 31/1/43

Law Secy 26/1/43

Asst Secy Law mc

V. C. 27/1/43

GOVT PRESS DEPT SCORE

12) The contention of the petitioners that the 16th of January should have been fixed for the hearing of objections to candidatures seems to be borne out by a strict interpretation of the language of rule 15(1) of the City Municipalities Rules that rule requires that objections should be heard and disposed of on "the third working day" afterwards. This seems to imply that the intervening holidays if any should be excluded in the computation of the three days Objections to candidature should accordingly have been fixed for the 16th of January, as 14th was as holiday and not as working day.

13) It was not possible however to comply with the request of the petitioners that the election may be set aside and ordered that another bye-election may be ordered. There has not been any election as contended by the petitioners, since no candidate has been declared to be elected by the Returning Officers. The process of election has not been completed although a few stages of it have been reached. Section 20 (1) of the City Municipalities Act provides that at any time within ten days after the date of the declaration of the result of an election, any candidate or any ten persons qualified to vote at the election may apply to the District Judge for the determination of the validity of the election. This is the only remedy available, and the Act does not empower either the Court or any other authority to intervene in the intermediate stages of an election. The petitioners may have recourse to this remedy.

JMV

14 I give that the 14th which was a general holiday, should have been excluded from calculation & the 16th which was the third working day should have been added

11 Though the Government will be sensible of the fact that the elections in many constituencies, this coming & unnecessarily inconvenience the voters, may be permitted under the Court to [illegible] the [illegible] the illegality [illegible]

[illegible]

OFFICE OF THE MINISTER FOR LOCAL GOVT
Date 28 JAN 1963
No 5888

28-1-63

29/1/63

29-1-63

Draft letter attached

29/1/63

18)
Subt with a draft letter for appl
UKG
29/1.

Lawsey 29/1/43

Cees 29-1-43

Sweatman 29/1/43

To the ml Commr, Bcg
No L 7440 dy 29-1-43
Points out the irregularity so as to avoid future complications and requests him to send an immediate reply re the action taken

Petition dy 28-1-43 from Mr S Krishnappa, Inamdar & Advocate, Bcg concerning to the notice of Govt that dy 15th Jany 43 has been fixed for hearing objections as the 3rd working day instead of the 16th Jany 43.

a1) Minutes of the Minister L 29+0 4 on the Petn

2) In person there appears to be necessary communication may be written to the Commr immediately to take suitable action

2) The irregularity has already been pointed out to the Returning Officer with a view to avoid future complications (Vide letter No L 7440 dy 29-1-43. No action appears to be necessary on this petn

1) Submit for orders
UKG
30/1
LS
30/1

4523 √ 4546

Continuation Sheet ML File No / Current No of 4243 Page 7

Letter No C/ C912/42 dt 29-1-43 from the ML Comm. Bellary forwarding a report on the matter

2) The report sent by the ML Comm is subj for perusal & orders

UB 30/1/43 3) Two other petitions received in this behalf are also forwarded

4/b Sri V. Krishnappa who stood as a candidate for the II Division as against Mr T.L Ranganja Rao and was disqualified from standing as a candidate has sent an application for setting aside the election on the same grounds as were alleged by him & he has submitted in reply to the letter sent to the Returning Officer for rectification the irregularities committed in not excluding the general holiday (14/1/43) from computing the three working days, the ML comm has passed orders stating that he has in the matter and that necessary action has been taken to conduct the elections on the said date (21/1/43)

He adds that if the parties feel any doubt regarding the validity of any election they are free to take further steps under Sec 20 of the Act

8)

Continuation Sheet ML File No / Current No 45/120 | 2 of 1942-43 Page

1) This report to Lord [illegible] permanent orders with regard to paras 14 to 16 of the note of Cabinet

Law Reg) dw 30/1/43

9072

2) We evidently does not want to take the suggestion & will be waste of time & know to have the election knowing of the defect

Min Def SG 30-1-43

3) The original evidence cannot be found

4) Suggestions to prevent unnecessary developments

OFFICE OF THE MINISTER FOR S G & P H Date 1 2 43 No 5962

dw 30/1/43

dw 30-1-43

30) Min 30/1/43

Min Def SG

dw 1-2-43 for 1/2/43

31) dw 1 2 43

dw 1-2-43 for 1/2/43

32) Submit for orders as to whether any reply has to be sent to the ML Comm

33) No reply is necessary either to the Memorial Committee or to any of the petitioners

The papers will however

4.5.43

be kept by the Caseworker for ready reference, till the election results are duly notified.

Lawrence
2/1/43

(34) may kindly appear in accordance with the decision arrived at in the meeting held on 4-2-43

Petition dt 8.2.43 from Mr AK Jayamuthiraji referring to the notice of Govt that 16th Jany 43 should have been fixed for hearing objections preferred by the Contesting Candidates for the Bye election fixed on 31-1-43 in the Berhampore El, instead of 15-1-43 and requests to interfere in the matter and the publication of the results of the election may be withheld till the question is finally settled etc.

(35) Kindly refer to the notes recorded in paras 12 - 16 supra on a similar petition presented by Mr Jayamuthiraji. The additional point urged in the petition to withhold the publication of the results of the election till the

matter is finally settled
35) Another petition addressed to the Minister
L&SG&D by the petitioner is also
subject for perusal
36) Mr. A.K. Jay a Muslim Leaguer,
1/2 a Harijan candidate for the recent
by-election in the city Mly has again
petitioned on the allegation of what
he considers to be an illegality the request
that a ruling on the illegality committed
by the Returning Officer may be given & the
election set aside - He states that the
Act of the Act does not apply
to the case in that the Act only therefore
interference but what the error committed
by the Returning Officer in this election
He pleads that fully the question is finally
settled, & that elections of those who are
successful may not be prejudiced.
38) The issue of the petition shows that
none of the unsuccessful candidates or
candidates whose applications were rejected
are willing to go in appeal, which
will not perhaps be based on any
legal flaw it would amount to an
error on the part of the Returning Officer
and it will be seen from Sec 20 (3)
the explanation thereunder of the Act that
the election is not likely to be annulled
or set aside on [illegible] that

5566 p 6v

Continuation Sheet | File No / Current No | of | Page 11

It would also mean expense & delay. Hence the Govt have been requested to enforce on the matter & give a ruling.

39) The circular was, however, printed & the Returning Officers (Mr Lewis) and he did not take advantage of the suggestion made by the Govt

40) The results of elections have been separately sent to Govt for appl constituencies in the area, it is for consideration of any action is called for in the present / facts of our jurisdiction

Lawley / 11/9/43

41) The Govt does not appear that the powers & duties Law Secretary may be considered

42) put up with the consolidated rules in which election matters are dealt with

43) [illegible] accordance with the rules in para 29

Lawley / 11-2-43 / 12/9/43

ASM Secy Law Dept

Law Min p 182/42 / 4/12/1943

SECY LAW DEPT 9474 11 - 3* JOINT - SWORE

44) under the Mysore City Municipalities Act, Govt have not reserved any power to go into the question of the validity of an election. It is to the District Judge of the district in which the election is held that any candidate should have recourse for the determination of the validity of the election (Section 20).

45) The petitioners contends that the section is applicable only to cases of irregularities and malpractices against an individual candidate in any particular election, and not to the entire election which is defected and illegal. The petitioners contention is not clear. If he means that a number of elections, as in this instance, have been held in various divisions and that all of them have been vitiated by the same irregularity, it is open to the candidates of the various divisions to have recourse to the Dist Judge as provided in section. That section is not restricted only to cases of corruption as contended by the petitioners. Even cases of non-compliances of the rules by the returning officers, as in the present instance, may be taken note of by the Dist. Judge, and if he finds that such non-compliance has materially effected the result of the election it may be set aside (Vide explanation to sub-section 5 of section 20)

HWV 18/2

Law Secy)

SECT DEPT 1964 GOVT

Elections to the Brit Mil Ch

4801

(46) I agree there is no provision under which the Govt can intervene under the existing Law, though the delay in the disposal in the Res Court may nullify the effect of the decision even in case of the petitioners success

Mr Rees Jones 13-2-43

for

47) the

15 2 43

Cur

16-2-43

48) 1) Appt and Attorney to petition

2) Further Affidavit in accordance with para 2 of letter

for

16/2/43

49) Drafts Solicitor appl

Appl

16/2

GS 16/2

Appl

Law Secy) for 16/2/43

50) I approved

- II - address separately

Cur

16-2-43.

51) 1) Forms I Appt

2) Remit expenses

for 16/2/43

DEPT OF FOREIGN AFFAIRS TELEGRAPH
Date 15 2 43
No 6536

SECY LAW DEPT
GOVT OF INDIA

TYPING SECTION
17 FEB 1943
GEN BRANCH

To Mr. A K Jayamuthu Raju
Doddapalya, Mysore Road, Bcg
No. L 8235 dt 18-2-43.
States that Govt cannot interfere
in the matter

5½) Reis submitted as directed in paras 50 & 51 supra

20/2 52) A/Dep Dos letter may be put up to me A-A
Khan requesting the observations as
para 49 supra
22/2/43

54) Submitted with a draft Do letter for appl

53) Dr Considerable para 50 supra
Law Secy) -L 28/2/43

22/2 SW

56) Jan a/Secretariat

OFFICE OF THE MINISTER FOR L S G & P H
Date 23 2 43
No 6842

Mem 62 SG
Dewan
Finance
Rev Chief Secy

Acs
23 2-43

57) L
VM2

58) L
23.2.43

506

59) Has the validity of the elections
been questioned by any candidate in a
competent court ? When we are declining to
interfere in the matter, why should we assume
that there was any irregularity or defect
which remained unrectified ?

expression to the Dewan

OFFICE OF THE MINISTER FOR L S G & P H
Date 1 3 43
No 70325

RLM
26/2/43

60) The draft may be
amended omitting the question
on the matter during Mem. 62 SG

Continuation Sheet. File No / Current No of 1035 USEC/L Page

the endorsement may be given to the foregoing Power of Attorney

Acc 2-3-43

As an endorsement has been already issued to the foregoing Power of Attorney the papers will be filed here

Acc 2-3-43

101,26 / 2 3 43 [illegible]

95/43

hearing objections about contesting candidates as per Rule quoted above.

Thanking you for favourable orders

Yours faithfully,

A. K. Jayamuthu Raja

M.L.C.

Doddapally, Mysore Road
Bangalore city.

Bangalore City,
Dated 16th January 1943.

Law

1. Copy forwarded to the Secretary to Government of Mysore, Bangalore, with compliments

2 Copy forwarded to the President, City Municipal Council, Bangalore, with compliments

18/1/1943

437

OFFICE OF THE
FOR L S G & P H
Date 22.1.43
No P 498

SEC LAW DEPT
22 1 43
GOVT MYSORE

To

The Minister for Local Self Government
and Public Health, Government of Mysore,
B a n g a l o r e

Respected Sir,

A callendar of Bye-Election in the Bangalore City Municipality has been published by the Municipal Commissioner and Returning Officer, notifying the dates of receiving and publication of applications for candidature as 12th January 1943 and for hearing and disposing of objections to candidature as 15th January 1943 etc under Rule 15(1) of the City Municipal Election - Rules In accordance with the said Rule 15(1) the day for hearing and receiving objections should be the third working day after the date of publication of the List of Candidates

In the case of present Bye Election, the last date for receiving nomination applications was 12th January 1943 and the day for hearing objections was 15th January 1943

As per said Rule 15(1), the third working day for hearing and disposing of objections should be the 16th January 1943 after the date of publication of the list of contesting candidates (i e 12th January 1943), 14th January 1943 being the general Holiday. The third working day should be the working days that must be the third after the 12th January 1943 but not the third day that must be the working day after the 12th January 1943

As 14th January 1943 was a General Holiday, 15th January 1943 was only the second working day

after

after the 12th January 1943, the last day of publication of the list of candidates

The procedure adopted by the Municipal Commissioner and the Returning Officer in fixing for - nearing and disposing of objection to candidature on 15th January 1943, which is the second working day is thoroughly in violation of the Rule 15(1) quoted above

The whole procedure is not only not in order but also illegal The election has therefore become defective and illegal

The Returning Officer rejected the applications of some competant candidates on 15th Jan A-3 and retained the applications of some candidates who have no qualifications as voters.

Further, some respectable people desire to contest the Bye-Election

In the circumstances, we request ~~xx~~ that this irregular election may kindly be set aside ordering another Bye-Election so as to enable the suitable and competant people to contest the elections with a view to serve the public

Pray immediate favourable orders,

Yours most obediently,
Respected Sir,
CITIZENS AND VOTERS OF BANGALORE CITY,

Bangalore City,
21st Jany 1943.

Chandrashekaran

Ramaiah

Abdul Sab

Rangaiah

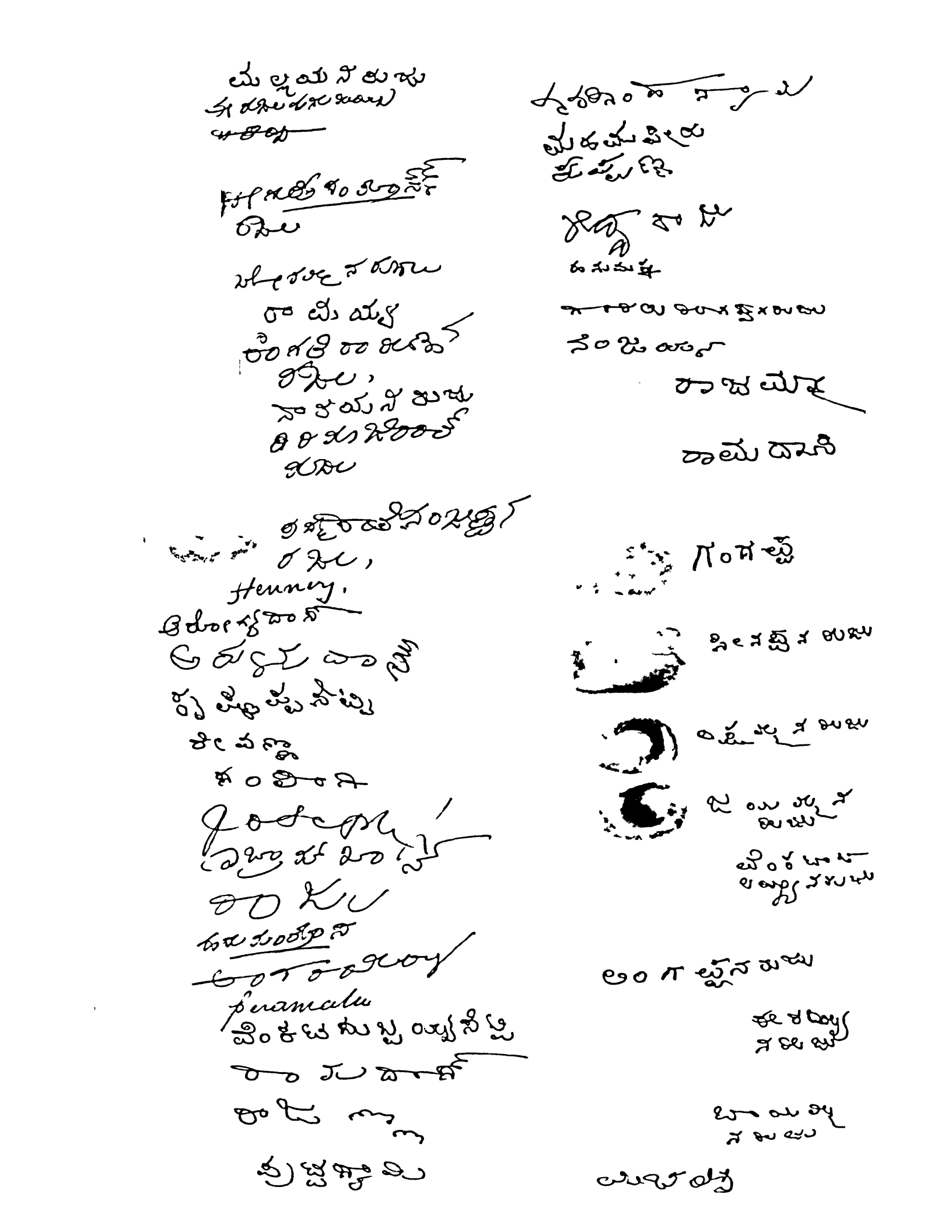
Thimma Raju

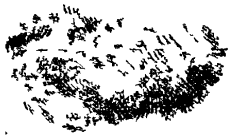
Shungla Char

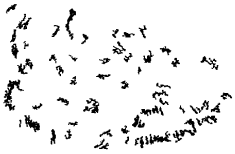
Raghavan

Anthony

Rama Raju







4416

GEN & PD SECT

To

Municipal Commissioner &
The/Returning Officer,
Bangalore City Municipality,
Bangalore

Sir,

With reference to your endorsement No C 1-C 912/42 dated 18th January 1943 regarding fixing the date for hearing and disposing of objections, if any, to candidatures, I wish to state that the Rule 15(1) of the City Muncipal Rules, is quite clear to the effect that the third working day must be the working days that must be third after the date i.e. 12th January 1943 fixed for publication of the list of candidates but not the third day, after the 12th January 1943, that must be the working day According to this Rule 15(1), third working day after 12th January 1943 was 16th January 1943 and not 15th January 1943 because 14th January 1943 was the General Holiday Hence the election procedure is wrong and the election requires to be set aside

Thanking you,

Yours faithfully,

Sd/-
A Th Jayamukhaya
M L C

Bangalore City,
21st January 1943

SECY LAW DEPT
21/1/43
GOVT OF MYSORE

Copy of the above respectfully submitted to the Law Secretary to Government of Mysore, Bangalore, for information and necessary action

A Th Jayamukhaya
M L C

4430/1

OFFICE OF THE M. CT.R
FOR L S G & P H
Date 25 1 43
No P506

To

The Minister for Local Self Government and Public Health

Government of Mysore,

Bangalore.

SECY LAW DEPT
MYSORE

Respected Sir,

Subject - Bye-Election in the Bangalore City Municipality

***

A callender of Bye-Election in the Bangalore City Municipality has been published notifying the date 12th Jan ,'43 for receiving applications for candidature and publication of the list of contesting candidates and 15th Jan ,'43 for hearing and disposing of objections, under Rule 15(I) of the City Municipal Election Rules. In accordance with the said rule 15(I), the day for hearing and disposing objections should be the third working day after the date of publication of the list of candidates.

In the case of present Bye-Election, 15th Jan.,'43 fixed for hearing and disposing of objections is only the second working day, after the 12th Jan ,'43, fixed for receiving applications and publication of the list of contesting candidates, 14th Jan , '43 being the General Holiday and not a working day.

There are some objections against some of the contesting candidates. Since 15th Jan.,'43 the second working day after the 12th Jan.,'43, was fixed for hearing and disposing of objections, 13th Jan.,'43 being the day fixed for withdrawing candidature and 14th Jan.,'43 being the General Holiday on account of Pongal, there was no sufficient time after knowing the results of withdrawal of candidature on 13th Jan ,'43 either for the candidates in particular or for the voters in general to ascertain certain points from private and public offices and institutions to file objections against illegal candidatures of some of the contesting candidates

As a consequence of fixing so short a period as the second working day, i e., 15th Jan ,'43 for hearing and disposing of

objections

objections, after the 12th Jan.,'43, it gave room for certain defects resulting in the rejection of the applications of some competant candidates and the retention of the candidature of some candidates who have no qualification as voter Further some respectable and competant candidates desire to contest the Bye-Election.

Hence, the procedure adopted by the Municipal Commissioner and Returning Officer in fixing 15th Jan ,'43 the second working day for hearing and disposing of objection to candidature after the publication of the list of contesting candidates is throughl in contravention of the Rule 15(I) of quoted above.

In the circumstances explained above, whole procedure of elections not only not in order but also illegal and what is more, it has caused material loss and inconvenience to contesting candidates not excluding myself.

My efforts in bringing this illegality in the Bye-Election system to the notice of the Municipal Commissioner and the Returning Office in writing are all invain.

In the circumstances, I request you to be good enough to order that this diffective and illegal Bye-Flection may be set aside and a Bye-Election be fixed so as to enable the competant and respectable people to contest.

Hoping to be excused for the troubles and praying for immediate favourable orders.

Respected Sir,
Yours faithfully,

A K Jayamuthaya
M L C

Bangalore,
Dated 25th Jan ,'43.

G R S App F G 3

GENERAL AND REVENUE SECRETARIAT

(*Continuation sheet draft form*)

L 7440

To The Dist Commr, Batticaloa.

Sir,

I am directed to invite reference to the Petn presented to you as the Returning Officer by Mr. A.C. Jayasunderam regn in connection with the ensuing bye-election to the Batticaloa M.C. fixed for the 31st inst. to state if two months and a copy of the same has also been submitted to Govt. He has brought to notice therein that, instead of 15th January 1943 today was fixed at present in the Calendar of events for hearing objections, 16th January 43 should have been considered as the third working day, as 14th was a

Signed by Mr. R.K.R.

Date 29-1-43.

WD 0280—GPB—22,500—14 3 38

general holidays.---

The question has been examined & it is found that 14th which was a general holiday should have been excluded from Calculation & the 16th January/43 fixed as the third working day as suggested therein.

---I have to point out this ~~irregularity~~ irregularity to you so that the correct procedure may be followed & avoid future complications as in such cases the stage at which the said irregularity is detected may be found the decision taken ~~decision~~ accordingly & communicated to me without delay.

I have etc

for

John Leyton Lomb

W/C - Law Dept

29/1

OFFICE OF THE ... FOR L S G & P H
Date 29/1/43
No P.522

COURT FEE 3367 TWO RUPEES

To

The Munister for Local Self Gover... Government of Mysore, Bangalore

SECY LAW DEPT GOVT OF MYSORE 4523

Respected Sir,

Subject - The Municipal Bye Elections in the second, fourth and eighth divisions in the Bangalore City on the 31st instant

)))))))

The Municipal Commissioner is the Returning Officer According to the Calendar of the Bye Elections published by him the date fixed for receiving applications for dandidature and the publication of the list of candidates is 12-1-1943 and the date fixed for hearing and disposing of objections is 15-1-1943 In fact, this has been followed by the Returning Officer

2 Rule 15 (1) of the City Municipal Election Rules lays down that the day for hearing and disposing of objections should be on the third working day after the date fixed for the publication of the list of candidates

3 But in the present case the date fixed for hearing and disposing of objections Viz , 15-1-1943 was only the second working day and not the third working day after 12-1-1943, the date on which the list of candidates was published, as 14-1-1943 happened to be a General Holiday

4 This is a serious irregularity vitiating the bye elections in all the three divisions in which Councillors have to be elected, Viz., one councillor in the second division, one in the fourth division and two in the eigth division This irregularity has resulted in considerable hardship and loss as 13-1-1943 was fixed for withdrawing candidature and 14-1-1943 was a General Holiday on account of Uttarayana Punyakala which is an important feast both for worship and for feasting In these circumstances, there

was not sufficient time either for dandidates or voters to ascertain and file objections to the candidature of persons specified in the list

5. The procedure laid down in Rule 15 (1) of the City Municipal Election Rules is mandatory and should be strictly observed by the Returning Officer, as he has in fact observed in other less important matters mentioned below According to this Rule, the list of candidates should have been posted up under the signature of the Returning Officer " with a notice that objections if any to the candidature of the person specified in the list will be heard and disposed of by him at 3 P M. on the third working day after the date of the publication of the aforesaid notice "Thus it is seen that it was absolutely unnecessary, if not irregular on the part of the Returning Officer to have before-hand fixed 15-1-1943 as the date for hearing and disposing of objections On the other hand, without specifying any particular date, he should have heard and disposed of objections on 16-1-1943 which is the third working day if he had put up the notice which the said Rule requires in the Municipal Office

6. Mr ~~Jambunatha~~ Jayamuthu Raux Raju, who is one of the candidates for the digth division brought this illegality to the notice of the Returning Officer so early as 16-1-1943, and I learn that his efforts were in vain Whereupon, Mr ~~Jambunatha~~ Jayamuthu Raju has approached you with his application dated 24-1-1943 and hundreds of voters in the three divisions in the City have likewise filed applica tions before the Government praying that the defective and illegal bye-election on 31-1-1943 may be stopped and a fresh bye election may be kindly ordered Our City Municipal Act does make provisions in respect ~~ive of an~~ irregularity ~~of~~ in the

entire bye election, as section 20 of the Act provides for " an election of a councillor " and not for the entire election as in the present case.

7 The Returning Officer has rejected the nomination paper of a candidate on the ground that his alias name does not appear in the voters list without satisfying himself about the identity of the candidate He has likewise disqualified my candidature also as per copy of his endorsement on very technical grounds, although I have already retired from the case mentioned therein and the court has accepted it As the term of the present municipal council expires with the calenday year, there are hardly eleven months more

8 As the above mentioned irregularity on the part of the Returning Officer applies to the entire Bye Election in all the three divisions, it is very necessary and desirable in the interests of justice and ~~fiax~~ fair play that you should kindly interfere and set right the mistake of your subordinate officer, as otherwise irrepairable loss and injury will be caused both to the candidates as well as to the voters in all these three divisions It is my contention which I respectfully place before you that S 20 of the Act does not apply to an irregularity in the entire Election, but that it applies only to individual candidates

Wherefore, I request you to be kindly so good as to order that the defective and illegal election on 31-1-1943 should be stopped and that a fresh Bye-election in all the three divisions should be held.

Yours obedient &
Respectfully,
Sd/- Shivalingappa
Inamdar Advocate
Dharwar Road
Belgaum

28/1-/1943

; 1. C 912/42.

Office of the Municipal
Commissioner and Returning Officer
City Municipality, dated,
Bangalore city 27th January 43.

Endorsement

With reference to his Nomination paper dated 12th January 1943, for the bye election to the City Municipal Council, Bangalore from the second division, Mr S. Krishnappa, B A Advocate, High Court of Mysore, residing at Second Main road, Seshadripuram, Bangalore city, is hereby informed that it having come to the notice of the under signed that he is appearing for the petitioner, Mr. R C. Gopalappa in Mis Case No 33/42-43 on the file of the Judge, Small Cause Court, Bangalore, against the City Municipality, Bangalore, he is disqualified from standing as a candidate at the ensuing bye elections on the 31st instant under section 11 of the " Election Rules " read with section 12 (1) (B)(c) of the Municipal Act, and his name has been removed from the voting paper of that division

Sd/- A A Khan,
Municipal Commissioner and Returning
Officer.

BANGALORE CITY MUNICIPALITY

No C1 C 912/42

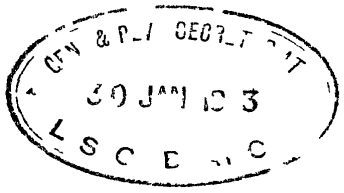
Encl 4 (four)

MUNICIPAL OFFICES

Bangalore 29th January 1943

Immediate

4546/2



From

ABDUL AZIZ KHAN ESQ B A.,
MUNICIPAL COMMISSIONER
BANGALORE CITY

To

C NARAYANASWAMI NAIDU, ESQ , B A ,B L ,
SECRETARY TO THE GOVERNMENT
OF HIS HIGHNESS THE MAHARAJA OF MYSORE,
LAW DEPARTMENT, BANGALORE

SIR

With reference to your letter No L 7440/M1 of even date received at 6 P M to-day, stating that 16th January 1943 ought to be fixed as the third working day as suggested by Mr A K Jayamuth Raju, for purposes of hearing objections relating to the ensuing elections to the City Municipal Council on the 31st instant, I have the honor to state that no objections were received on the 15th instant, but Mr A K Jayamuthu Raju presented a petition to this effect on the 16th instant at 5-30 P M and an order was passed by me on the 18th instant, (since 17th happened to be a Sunday) stating that the date fixed for hearing of objections in the Calendar, viz , 15-1-43, was i accordance with the Rule 15(1) of the Rules of Election to the City Municipal Councils and an endorsement was also issued to him to that effect on the same date, viz , 18-1-43 A copy of the Office Note and the order thereon is herein enclosed for favour of information of Government I may also add here that Mr A K Jayamuth Raju and others presented an objection petition on the 16th instant at 5-30 P M objecting to the candidature of one Mr C Krishna Rao to the City Municipal Council, Bangalore, from the VIII Division, and it was also considered on its merits and disposed of A copy of the petition given by Mr A K Jayamuth Raju and others and a copy of the endorsement issued to them are also enclosed for the information of Government

In this connection, I may add that the election in respect of VIII Division is fixed for the 31st instant and all necessary action has been taken to conduct the same on the said date If, however, any

parti-s feel any doubt regarding the [redacted]
they are free to take further steps as contemplated [redacted]
of the City Municipalities Act of 1933.

I have the honer to be,
S i r,
Your most obedient servant,

MUNICIPAL COMMISSIONER.

MSN.

msn

Office Note dated 18th January 1943, but up by the Municipal Commissioner's Office

Mr A K Jayamuthuraju, L L C , one of the candidates for the Bye-election to the Municipal Council, from the 8th Division, has sent in a petition pointing out that the procedure adopted by the Returning Officer in having fixed the 15th January 1943 as the date for hearing and disposing of objections to the candidatures, was in contravention to Rule 15 of the Election Rules, since under the Rule in - question, the objections will have to be heard at 3 P M , on the 3rd working day after the publication of the list of contesting candidates and calling for objections if any, and since, 14th instant happened to be a holiday, 15th instant was only the Second working day and not the third as contemplated under the rules He has also written to state that the 16th January should be fixed as the date for hearing objections, if any, and he had presented this petition on the 16th itself at 5-30 P M ,

Rule 15 (1) of the Rules ~~regar-~~ relating to Election of Councillors lays down that "The Returning Officer shall at 5 P M , on the last day fixed for receiving applications for candidature, read out the names of all the candidates whose applications have been received and a list of such candidates shall forthwith be posted up under his signature in the Municipal Office with a notice that objections, if any, to the candidature of the person specified in the list will be heard and disposed of by him at 3 P M , on the third working day after the date of publication of the aforesaid notice" The last date for receiving nominations was - 12-1-1943 and a list of nominations received and a notice calling for objections was put up on the notice board the same day So, the date for hearing and disposing of objections was fixed at 3 P M , on 15-1-1943, since it is the 3rd - working day after the publication of such a notice, as - contemplated in the Rules Perhaps, the petitioner means

means that there should be two clear working days between the date of publication of notice and the date for hearing objections, and since 14th happened to be a holday, he says that the objections should be heard on the 16th instant, instead of on the 15th

But the Rule referred to above is quite clear It simply says that the objections, if any, should be heard on the third working day, from the date of publication of the list and notice, and the intervention of a holday does not in any way affect the arrangements now made The idea in mentioning "third working day" in the Rules is to make it clear that if the third day happened to be a holiday, then the objections should be heard on the next working day

Further, since the objections will be heard by the Returning Officer only on the third working day, it is not necessary that there should be two clear working days between the date of publication of notice and hearing of objections.

In these circumstances, ~~what~~ what has been done is quite in order and the petitioner, if approved, will be endorsed accordingly

---

ORDER

I AGREE

Sd/- A A K

18-1-1943

"Copy"

A A Khan

Municipal Commissioner,
Returning Officer

ksm

Endorsement No C1-C 912/42 dated 18th January 1943 issued from the Office of the Municipal Commissioner and Returning Officer, Bangalore City

---

With reference to his petition dated 16-1-43 stating that since the 14th happens to be a holiday, the objections to the candidature, if any, ought to be heard on the 16th instant and not on the 15th as per calendar put up, under Rule 15 (1) of the Rules of Election, Mr A K Jayamuthiraju is informed that the Rule in question is quite clear and the date for hearing and disposing of objections has been fixed in accordance with the above Rule

---

"Copy"

Municipal Commissioner,
MBI Returning Officer

ksm

Petition dated 16th January 1943 from Mr A K Jayamuthraju, and others addressed to the Municipal Commissioner & Returning Officer, Bangalore City

---

Out of the 8 candidates that are contesting the Municipal Bye-elections to be held on 31st January 1943, Mr C Krishna Rao is one of the candidates in the Eighth Division

I understand that the name of Mr C Krishna Rao did not appear in the original election Roll, as he was not qualified to be a voter After the publication of the Election List he seemed to have put in an application to the Municipal Commissioner for inclusion of his name as a special case in the additional list Even then his application was rejected on the ground of ineligibility for inclusion as a voter It is a surprise now as to how he succeeded in the inclusion of his name in the additional list subsequently without the approval of the Municipal Council or at least the President of the Council

The inclusion of the name of a Persian in the additional List without the approval of the Municipal Council and also not prior to one month before the date of an election fixed is in violation of the City Municipal Election Rules

As the inclusion of the name of Mr C Krishna Rao in the additional list is without the approval of the Municipal Council is contrary to prescribed Election Rules If his membership as a voter in the additional list is illegal, his candidature is prefacie illegal So I request that his name may kindly be removed from the Voter's List, as the inclusion is illegal for the foregoing reasons, such a course will disqualify him as a candidate and give scope to other better candidates

The favour of immediate action is requested as the election is going on

---

"Copy"

ksm

Municipal Commissioner
Returning Officer

Endorsement No C1 C.912/42 dated 18th January 43 issued from the Office of the Municipal Commissioner and Returning Officer, Bangalore City

---

With reference to their application dated 16-1-43 objecting to the candature of Mr C Krishna Rao, for the bye election to the Municipal Council, Bangalore, from the 8th division, on the 31st instant, on the ground that his name has been included in the Voter's list after the Electoral Roll was first published and that too without proper sanction of the Municipal Council etc , Mr A K Jayamuthraju and others are informed that the Municipal Council approved of the inclusion of the name of Mr C Krishna Rao in the Electoral Roll of the VIII Division at their meeting held on 14-2-1942 and hence their objection petition is rejected since the grounds advanced by them are not tenable

"Copy"

Municipal Commissioner
& Returning Officer

ksm

4719

To The Law ~~Minister~~, Secretary,
Government of Mysore,

Bangalore

Respected sir,

Subject.- ~~xxxxxxxxxxxxxxx~~ The Bye election of the Bangalore city Municipality in the Second, forth and Eighth Divisions on the ~~X~~ 31 st Jan., '43.

The Municipal Commissioner was the returning Officer. According to the Calender of the Bye-election published by the returning Officer, the last date for receiving applications for candidature and for the publication of the list of candidates was 12-1-43, the date of withdrawal of candidature was 13-1-1943 and the last date for hearing and disposing of objections to candidature was 15-1-43.

2. Rule 15 (1) of the City Municipal Election~~s~~ Rules lays down that the third working day after the publication of the list of candidates ~~xxxx~~ should be fixed for hearing and disposing of objections. Accordingly 16-1-43 was the third working day after 12-1-43 as 14-1-43 was the General Holiday on account of Pongal.

3. In the case of the present Bye election, the date 15-1-43 was specifically fixed as the third working day for hearing and disposing of objections. As stated in para (2) above, 15-1-43 was only the second working day after 13-1-43 and not the third working day. Thus the returning Officer has violated the expressed direction contained in Rule 15 (1) of the Election Rules.

4. The directions contained in Rule 15(1) of the ~~Electo~~ Election Rules are mandatory. The returning officer should implicitly obey them as ~~xxx~~ he has strictly followed them in other other less important matters noted below. The proper procedure was that the returning Officer should have published a list of candidates under his signature with a notice that "Objections, if any, to the candidature of the contesting candidates noted in the list will be heard and disposed of on the 3rd working day after the publication of such a list" without mentioning the date. If this procedure was followed by the returning officer, it was absolutely un-necessary for the specification of any particular date as the 3rd working day and he should have then in the ordinary course heard and disposed of the objections on 16-1-43 which was the third working day. There was some purpose and intention to the returning Officer in fixing 15-1-43 as the third working day to help certain individuals ~~x~~ who were not qualified as voters.

5. The procedure adopted by the returning Officer was thoroughly in contravention of the legal injunctions contained in Rule 15 (1) of the Municipal Election Rules so the entire system of election is defective and illegal.

6. I brought this illegality to the notice of the returning Officer and filed an objection petition to the effect in time on 16-1-43 against the illegal candidature of a candidate who was not qualified as a voter. (when the Municipal Commissioner was in the council hall, holding the meeting). But still the returning Officer held that illegality in fixing the second working day 15-143 for hearing and disposing of objections was in order.

7. The Returning Officer had strictly followed the rules in rejecting the candidature of a candidate on the ground that his similar name did not appear in the voters list without satisfying the identity of the person and of Mr. [illegible], an [illegible] court advocate on the technical grounds though technical defects cease.

8. The illegality in the system of election has vitiated the entire ~~xxx~~ election of all the

[illegible] 2/43

four candidates in all the three Divisions causing considerable loss and injury to some candidates and also th the voters As I3-I-1943 was fixed for withdrawing candidature and I4-I-43 was a General Holiday, there was no sufficient time either for the candidates or for voters to ascertain information and file objections to the candidature of the consesting candidates noted in the list.

9 After the Returning Officer ruled out my objections I brought to the notice of the Law Secretary and the Minister for Local Self Government snd public Health, the illegality in the system of Election and urged for setting aside the Bye-Election Hundreds of voters in all the three Divisions filed objection petitions to the Government requesting for setting aside this defective and illegal election. Mr Krishnappa also filed an appeal petition to the Government setting forth the illegality in the system of election and requesting to set aside the electi election

IO. My contention is not the question of irregularity or a corrupt practice against an individual candidate But my contention is the question of illegality vitiating the system of entire election of all the four candidates in all the four Divisions, as a result of corrupt practice done intentionally by the Returning Officer with a view to cause irepairable loss and the injury to some candidates and also to voters

City Municipality act does not make any provision for the illefality in the entire elction, as section 20 of the act provide for "An election of a counciler" and not for the entire election as in the present case

Besides the term of the present Municipal council expires in December '43 The Legal procedure in the lower court in the first instance and an appeal if need be in the High court is a long, protracted and costly course especially to an Harijan candidate as myself and by the time the proceedings are settled, the term of the Municipal council would expire Such a course would cause further loss

The objections filed by mr S Krishnappa were published in the news papers and the voters in all the three Divisions were sure that Government would set aside the election on the ground of illegality

Acting in the same belief, I too did not work for my succes success, the result is a miserable failure and material loss of my Deposit amountand injury for me The Public resented the silence of Government in giving a ruling. Out of over I800 voters in the VIII Division, only, about onethird voters exercised their votes and the remaining over two thirds concentious voters did not vote Further the Municipal Councillors did not meet on Ist Feb, '43 though fixed for counting votes as the election was not in order All these go to show that the system of election was defective and illegal

Hence Sec 20 of the Act does not apply to the entire election which is defective and illegal. This section 20 applies only to the irregularity or malpractice against on individual candidate in any one particular election

In this connection, I beg to state that this is the Ist time in the history of General elections that an Harijan candidate ss myself had contested a General seat, and my defeat is due to the illegality in the system of election and most of the generous and sympathetic voters decline to vote on that account

Havong regard to these facts the forfeiture of my Deposit amouht Under an illegal election is illegal In the circumstance I request that in the interest of fair play and justice you will be good enough to give a ruling on the illegality setting aside the elction

I request that in the mean time the publication of the election of these candidates may be with-held till the question is finally settled as is done in the case of election of President

8/2/43

and the Vice-president.
Thanking you for immediate favourable orders.

I beg to remain,
yours faithfully

Bangalore.

Dated 8-2-43.

A. K. Jayamuthaya
M L C

COURT FEE TWO RUPEES

OFFICE STAMP FOR L S G & P H Date 9 2 43 No P 578

To

The Minister for Local Self Government and Public Health
Government of Mysore

Bangalore

Mc 66-42

Secretary Sir,

Subject - Election The Bye election of the Bangalore city municipality in the second, fourth and eighth Divisions on on the 31 st Jan., '43.

The Municipal Commissioner was the returning Officer. According to the Calendar of the Bye-election published by the Returning Officer, the last date for receiving applications for candidature and for the publication of the list of candidates was 13-1-43, the date of withdrawal of candidature was 13-1-1943 and the last date for hearing and disposing of objections to candidature was 15-1-43.

2. Rule 15 (1) of the City Municipal Election Rules lays down that the third working day after the publication of the list of candidates shall be fixed for hearing and disposing of objections. Accordingly 15-1-43 was the third working day after 13-1-43 as 14-1-43 was the General holiday on account of Pongal.

3. In the case of the present bye election, the date 15-1-43 was specifically fixed as the third working day for hearing and disposing of objections. as stated in para (2) above, 15-1-43 was only the second working day after 13-1-43 and not the third working day. Thus the Returning Officer has violated the expressed directions contained in rule 15 (1) of the election Rules.

4. The directions contained in rule 15 (1) of the election Rules are mandatory. The Returning Officer should implicitly obey them and he has wilfully failed to follow them in other less important matters noted below the proper procedure was that the Returning Officer should have published a list of candidates under his signature with a notice that "Objections, if any, to the candidature of the contesting candidates noted in the list will be heard and disposed of on the 3rd working day after the publication of such a list" without mentioning the date. If this procedure was followed by the Returning Officer, it was absolutely unnecessary for the specification of any particular date as the 3rd working day and he should have then in the ordinary course heard and disposed of the objections on 16-1-43 which was the third working day. There was some purpose and intention to the Returning Officer in fixing 15-1-43 as the third working day to help certain individuals who were not qualified as voters.

5. The procedure adopted by the Returning Officer was thoroughly in contravention of the legal injunctions contained in rule 15 (1) of the Municipal Election Rules so the entire system of election is defective and illegal.

6. I brought this illegality to the notice of the Returning Officer and filed an objection petition to the effect in time on 16-1-43 against the illegal candidature of a candidate who was not qualified as a voter (on the Municipal Commissioner was in the council hall, holding the meeting). But still the Returning Officer held that illegality in fixing the second working day 15-1-43 for hearing and disposing of objections was in order.

7. The Returning Officer has strictly followed the Rules in rejecting the candidature of a candidate on the ground that his wife's name did not appear in the voters list without satisfying the identity of the person and of Mr. S. Ramappa, an High Court advocate on the technical grounds though technical defects cease

8. The illegality in the system of election has vitiated the entire Bye-election of all the

8/2/43

four candidates in all the three Divisions causing considerabl loss and injury to some candidates and also th the voters.As 13 1943 was fixed for withdrawing candidature and 14-1-43 was a General Holiday, there was no sufficient time either for the can dates or for voters to ascertain information and file objections to the candidature of the contesting candidates note in the list.

9. After the Returning Officer ruled out my objections I brought to the notice of the Law Secretary and the Minister f Local Self Government and public Health, the illegality in the system of election and urged for setting aside the Bye-election Hundreds of voters in all the three Divisions filed objection petitions to the Government requesting for setting aside this defective and illegal election.Mr.Krishnappa also filed an appeal petition to the Government setting forth the illegality in the system of election and requesting to set aside the elec election

10. My contention is not the question of irregularity or a corrupt practice againdt an individual candidate.But my conten tion is, the question of illegality vitiating the system of entir election of all the four candidates in all the fourh Divisions, as a result of corrupt practice done intentionally by the return ing Officer with a view to cause irepairable loss and the injury to some candidates and also to voters.

City Municipality act does not make any provision for the illegality in the entire election ,as section 20 of the act provi for 'An election of a councilor' and not for the entire election as in the present case

Besides the term of the present Municipal council expires in December '43 the usual procedure in the lower court in the first instance and an appeal if need be in the High court is a long, protracted and costly course especially to an Harijan candi date as myself and by the time the proceedings are settled, the term of the Municipal council would expire such a course would cause further loss.

The objections filed by Sri.Krishnappa were publishe in the news papers and the voters in all the three Divisions were sure that Government would set aside the election on the groun of illegality.

Acting in the same belief ,I too did not work for my succ success, the result is a miserable failure and material loss of my Deposit amountand injury for me. The public resented the silen of Government in giving a ruling.Out of over 11000 voters in the VIII Division, only, about onethird voters exercised their votes and the remaining over two thirds conscientious voters did not vot further the Municipal Councillors did not meet on Ist Feb., '43 though fixed for counting votes as the election was not in order All these go to show that the system of election was defective a illegal.

Hence Sec. 20 of the act does not apply to the entire election which is defective and illegal. This section 20 applies only to the irregularity or malpractice against on individual candidate in my one particular election.

In this connection, I beg to state that this is the Ist ti in the history of General elections that an Harijan can date as myself had contested a General seat, and my defeat is du to the illegality in the system of election and most of the generous and sympathetic voters decline to vote on that account

Having regard to these facts the forfeiture of my Deposit amount Under an illegal election is illegal. In the circumstanc I request that in the interest of fair play and justice you will be good enough to give a ruling on the illegality setting aside the election.

I request that in the mean time the publication of the election of these candidates may be with-held till the quest is finally settled as is done in the case of election of I

8/2/43

and the Vice-president.
Thanking you for immediate favourable orders.

I beg to remain,
yours faithfully

Bangalore.

Dated 8-2-43.

A L Jayamukhoji
M L C

Appendix F G—1]

SUBJECT

Diary No of letter replied to

General and Revenue Secretariat

( )

the 194

Date of issue 18/2/43

Signed by for GKRao

List of enclosures

Copied by

Examined by

Section ml

File No ~~66 42~~ 120 – 4

Serial No 159

Draft

L-8235

~~No~~ Endt granted to Mr

~~To~~ A K Jayamuthu Raju

Doddabalkya,

Mysore Road, Bcity

— with reference to his petitions ending with the one dated the 10th Feb 1943, bringing to the notice of Govt certain irregularities in the Byc-election held on 31-1-43 for the Bangalore city ml cl ~~seat~~ requesting ~~Govt to interference of Govt in the matter~~, Mr Jayamuthu Raju is informed that Govt cannot interfere ~~in the election~~ in the matter as there is no provision in the existing Mysore city rules

WD 04161—GPB—60 000—24 10 41

~~Act 1933 to ...~~

By order
for
Secy to Govt
16/2 Law Deptt

Memo no L 7236 dy 18/2/43

Copy of the above ~~letter~~ above is forwarded with compliments to the ml Commr, Mirpur for information

By order
for
16/2 Dy Secy to Govt
Law Deptt

Draft II

To The ml Commr, Poonch,

Sir,

With reference to the Correspondence ending with your letter no C1-C 912/42 dy 29-1-43 re: the bye election to the city ml held on 31-1-43, I am directed to ~~state~~ ~~that Govt~~ observe that you ought to have carried out the suggestions conveyed to you in this office letter no L 7440 dy 29-1-43 in the matter. ~~to prevent unnecessary developments in this behalf.~~

I have etc

for
16/2 Secy to Govt
Law Deptt

BANGALORE CITY MUNICIPALITY

No C1 C 912/42-43 MUNICIPAL OFFICES 3867/A

Encl Two Bangalore 22nd December 1942

FROM

ABDUL AZIZ KHAN ESQ B A
MUNICIPAL COMMISSIONER
Bangalore City

To

C NARAYANASWAMI NAIDU, ESq , B A ,B L ,
SECRETARY TO THE GOVERNMENT
OF HIS HIGHNESS THE MAHARAJA OF MYSORE,
LAW DEPARTMENT, BANGALORE

ESq
SECY LAW DEPT
2, C SIR,
GOVT OF MYSORE

Adverting to your letters Nos L 5543/M1 66-42-6 dated the 3rd instant and L 6199 of the 19th instant, I have the honor to state that the Bye-Election for filling up the vacancies of Messrs (1) N Kesaviengar, (2) M R Honnappa, (3) B Narasimhiah and (4) Dr Miss Kamala Ramachandriah has been fixed for Sunday the 31st January 1943 A copy of Notice and Calendar of events issued in this behalf is herein enclosed for the information of Government A further communication will be made after the election is over

I have the honor to be,
S i r,
Your most obedient servant,

A A Khan
MUNICIPAL COMMISSIONER

Forwarded with compliments
C. Venkatasubba Reddy
Honorary Vice President.

Submit for perusal
24/12

Submit for kind perusal
Minister L&J 24/12

OFFICE OF THE MINISTER
FOR L S G & P H
Date 26 12 42
No 5049

30/12

29/12

24/12

22 12 42

26/12/42

28/12/42

[illegible] LORRAINE [illegible]

No Cl C [illegible]/ 2-3 City [illegible] l Offices,
[illegible] ne, [illegible] 2nd Dec [illegible]

Notice

I [illegible] of notice for the information of [illegible] t four v c nc ss v [illegible] and [illegible] of the [illegible] of [illegible] , [illegible] , [illegible] , [illegible] [illegible] onn p , [illegible] , B L , fro [illegible] Councillors [illegible] II and VIII [illegible] s ons, under S ction 12(2)(a) of [illegible] of C y Municip l [illegible] of 1933, [illegible] of [illegible] ons of [illegible] [illegible] n r [illegible] [illegible] l [illegible] m chanur [illegible] fic [illegible] he IV and VIII v s ons r sp ct v ly, [illegible] -ol c on will b h ld under Rule 1 of [illegible] unicip l l c o l Rules, s nc d [illegible] n ov rn nt No f c [illegible] No L 3150/[illegible] 92-35-5 d t d 18-[illegible]-38, for f llow up the [illegible] v c nc s

In [illegible] c, pl c and ours of l ctio [illegible] notic is

2. All p rsons whos n m s r [illegible] n [illegible] l ctor l [illegible] rolls p rtaining to the II, IV and VIII [illegible] v sions, prep [illegible] for the l Gen r l l ctions, will be ent l d to vot Copies of Rolls [illegible] r v l bl for s l [illegible] n h C y unicip l Offices, [illegible] ng [illegible] ring Office hours on [illegible] or ing d ys

3 [illegible] h l st d t [illegible] for d liv r [illegible] h pplic tions or c nc l [illegible] the R turning Offic r (unicip l Commissioner) is [illegible] 12th J nu ry 1943 up to 5 p M

Name of Division	No o Councillor to be elected	Place of election	Date & hour of election
II	One	[illegible] y V [illegible] l, Sund y Road [illegible]	31st Jany 43 [illegible] 9 [illegible] to 12 [illegible] 2 p [illegible] to 5
IV	One	City Municip l Offices, [illegible]	-do-
VIII	Two	N tion l [illegible] Sch l, [illegible]	-do-

[illegible]

Municip l Commissioner
&
Returning Officer

[illegible]

BANGALORE CITY MUNICIPAL ACT

C1 C 913/

Calendar for election of members to the Municipal Council, Bangalore City, for filling up the vacancies caused by the Councillors, namely, Messrs. [illegible], B L, [illegible], B L, under Section 12 (2)(c) of the Mysore City Municipalities Act 1933, from the III and VIII divisions, and by the resignations of Messrs. [illegible] from the IV and VIII divisions respectively

1	Notice of election	23rd December 1942
2	Period for receiving nominations	12th January 1943 up to 5 P.M.
3	Publication of list of candidates nominated for objections, if any, and the date thereof (Rule 15(1)	12th January 1943
4	Period for objections, if any, and publication of the list of eligible candidates (Rule 15(3))	15th January 1943 ~~up to~~ 5 P.M.
5	Posting of election notice outside the polling booth (Rule 21( )	29th January 1943
6	Date of election	31st January 1943
7	Meeting of the Municipal Council for declaring the result of elections	2nd February 1943
8	Report of election to Government	2nd February 1943

Municipal Commissioner
and
Returning Officer

Appendix F G—1]

SUBJECT

Section ml

File No 120-42

Serial No

Diary No of letter replied to

Do No

General and Revenue Secretariat

( )

the *194*

To

Dear Sir,

In Connection with the recent bye-elections to the Bangalore Cy Mc held on the 31st Jany 1943, I am desired to state that, through the irregularity in the preparation of the Calendar of events which was brought to the notice of Govt was pointed out to you, when you were the Commissioner, Bangalore City Municipal Council, with a request to rectify the same before

Date of issue

Signed by

List of enclosures

Codied by

Examined by

WD 4161—GPB—60 000—24 10 41

that you should have
carried out the suggestions
made to you in the matter

Yours sincerely
for
To Abdul Aziz Khan Esqrs, BA
- Dy Commr:, Bangalore DC

WC
23/2

4929/1

OFFICE OF THE SECRETARY
FOR L S G & P H
Date 15 2 43
No P 592

To

The Minister for Local Self-Government
and Public Health, Government of Mysore,
B A N G A L O R E

Respected Sir,

In continuation of my appeal petition dated 8th February 1943 requesting to set aside the Bye-Election of the Bangalore City Municipality held on 31st January 1943 on the grounds of illegality set forth therein, I beg to state that the results of the said Bye-Election were declared on the 5th February 1943 and that, according to Section 20 of the City Municipalities Act, at any time within ten days after the date of the declaration of the result of an election of a Councillor, etc , an appeal will have to be preferred to the District Judge of the District But Section 20 of the Act applies only to "An election of a Councillor" in so far as they relate to an irregularity, illegality or corrupt practice committed by any individual candidate in any one particular election It does not apply to an illegality vitiating the entire system of Election Hence there is no provision for some of the contested candidates or voters to prefer an appeal to the District Judge In such cases as this, Government will have to give a ruling on the illegality and they have been empowered under Section 228 of the Act to make rules or orders in respect of fixing dates, times, etc , in an Election And also Sub Section 228 (6)(VII) of the Act

Mr S Krishnappa, one of the contested candidates, had preferred an appeal to Government immediately after the result of the election in this Division, viz , II Division, was known, requesting the Government to give a ruling on the illegality in the entire system of election Government have delayed giving ruling, with the result the prescribed time of ten days for an appeal expired There is no time even for the candidate in the IV Division to prefer an appeal Hence I request that you will be pleased to give a ruling according to the section 228 (6)(VII) of the Act on the illegality in the entire system of election and also on the illegal procedure of forfeiting my deposit amount under an illegal election

Praying for immediate favourable orders,

Yours obediently,

13/2/43 A Ls Jayamukhayya
M L C

4888/L

The Secretary to the Government of Mysore,
Law Department,
BANGALORE

Respected Sir,

In continuation of my appeal petition dated 8th February 1943 requesting to set aside the Bye-Election of the Bangalore City Municipality held on 31st January 1943 on the grounds of illegality set forth therein, I beg to state that the results of the said Bye-Election were declared on the 5th February 1943 and that, according to Section 20 of the City Municipalities Act, at any time within ten days after the date of the declaration of the result of an election of a Councillor, etc , an appeal will have to be preferred to the District Judge of the District But Section 20 of the Act applies only to "An election of a Councillor" in so far as they relate to an irregularity, illegality or corrupt practice committed by any individual candidate in any one particular election It does not apply to an illegality vitiating the entire system of Election Hence there is no provision for some of the contested candidates or voters to prefer an appeal to the District Judge In such cases as this, Government will have to give a ruling on the illegality and they have been empowered under Section 228 of the Act to make rules or orders in respect of fixing dates, times, etc , in an Election And also subsection 228 (b) (VI) of the Act

Mr S Krishnappa, one of the contested candidates, had preferred an appeal to Government immediately after the result of the election in this Division, viz , II Division, was known, requesting the Government to give a ruling on the illegality in the entire system of election Government have delayed giving ruling, with the result the prescribed time of ten days for an appeal expired There is no time even for the candidate in the IV Division to prefer an appeal Hence I request that you will be pleased to give a ruling according to the section 228 (b) (VI) of the Act on the illegality in the entire system of election and also on the illegal procedure of forfeiting my deposit amount under an illegal election

Praying for immediate favourable orders,

Yours obediently,

13/2/43

A K Jayamath Raju
M L C

4863
L

Subd. The Connecticut
has been sent to the
Law section for opinion
If agreed, this will
also be sent in
confirmation

KKB
13/2
CS 13/2

Pl return this
when done
L
13/2/43

4863/L

OFFICE OF THE DEWAN OF MYSORE
Date 12.2.43
Page No. 737

To The Dewan of Mysore

Bangalore

SECY LAW DEPT 12 FEB 1943 GOVT OF MYSORE

Repected sir,

Subject - ~~xxxxxxxxxxxx~~ The Bye Election of the Bang lore city Municipality in the Second, forth and Eighth Divisions on the ~~x~~ 31 st Jan ,'43

The Municipal Commissioner was the returning Officer. According to the Calender of the Bye-Election published by the Returning Officer, the last date for receiveing applications for candidature and for the publication of the list of candidates was 12-I-43, the date of withdrawal of candidature was 13-I-1943 and the last date for hearing and disposing of objections to candidature was 15-I-43.

2 Rule 15 (i) of the City Municipal Election Rules lays down that the third working day after the publication of the list of candidates should be fixed for hearing and disposing of objections Accordingly 16-I-43 was the third working day after 12-I-43 as 14-I-43 was the General Holiday on account of Pongal.

3. In the case of the present Bye Election, the date 15-I-43 was specifically fixed as the third working day for hearing and disposing of objections As stated in para (2) above, 15-I-43 was only the second working day after 12-I-43 and not the third working day. Thus the Returning Officer has violated the expressed directions contained in Rule 15 (1) of the Election Rules

4 The directions contained in Rule 15(1) of the Electric Election Rules are mandatory The Returning Officer should implicitly obey them as he has strictly followed them in other less important matters noted below The proper procedure was that the Returning Officer should have published a list of candidates under his x signature with a notice that "Objections, if any, to the candidature of the contesting candidates noted in the list will be heard and disposed of on the 3rd working day after the publication of such a list" without mentioning the date If this procedure was followed by the Returning Officer, it was obsolutely un-necessary for the specfication of any particular date as the 3rd working day and he should have then in the ordinery course heard and disposed of the objections on 16-I-43 which was the third working day There was some purpose and intention to the Returning Officer in fixing 15-I-43as the third working day to help certain individuals who were not qualified as voters

5 The procedure adopted by the Returning Officer was thoroughly in contravention of the legal injunctions contained in Rule 15 (1) of the Municipal Election Rules So the entire system of election is defective and illegal

6 I brought this illegality to the notice of the Returning Officer and filed an objection petition to the Office in time on 16-I-43 against the illegal candidature of a candidate who was not qualified as a voter (when the Municipal Commisioner was in the council hall, holding the meeting) But still the Returning Officer held that illegality in fixing the second working day 15-143 for hearing and disposing of objections was in order

7 The Returning Officer had strictly followed the Rules in rejecting the candidature of a candidate on the ground that his alias name did not appear in the voters list without satisfying himself the identity of the person and of mr.S Krishnappa, an High court Advocate on the technical grounds though technical defects ceased

8 The illegality in the system of Election has vitiated the entire Bye-Election of all the

10/2/43

four candidates in all the three Divisions causing considerable loss and injury to some candidates and also to the voters as I3-I-43 was fixed for withdrawing candidature and I4-I-43 was a General Holiday, there was no sufficient time either for the candidates or for voters to ascertain information and file ~~x~~ objections to the candidature of the contesting candidates noted in the list

9 After the Returning Officer ruled out my objections, I brought to the notice of the Law Secretary and the Minister for Local Self Government and Public Health, the illefality in the system of election and urged for setting aside the Bye-election Hundreds of voters in all the three Divisions filed objections/ petitions to the Government requesting for setting aside the~~s~~ defective and illegal election Mr Krishnappa also filed an appeal petition to the Government stting forht the illegality in the system of election and requesting to set aside the election

I0 My contention is not the question illegality or a corrupt practice against an individual candidate But my contention is the question of illegality vitiating the system of entire election of all the four candidates in all the four Divisions as ~~x~~ result of corrupt practice done intentionally by the ~~x~~ Returning Officer with a view to cause irrepairable loss and the injury to some candidates and also to voters

City Municipality act does not make any provision for the illegality in the entire election as section 20 of the act provides for an election of a councillor and not for the entire election as in the present case

Besides the ~~term~~ of the present Municipal Council expire expires in December 1943 The ~~law~~ legal prodedure in the lower Court in the ~~First~~ instance and an appeal if need be in the High Court is a long protracted and costly course, especially to an Harijan candidate as myself and by the time ~~of~~ the proceedings are settled the term of the Municipal council would expire Such a course would cause further loss to me

The objections filed by mr S Krishnappa were published in the news papers and the voters in all the three Divisions were sure that Government would set aside the election on the ground of illegality

Acting in the same belief I too did not work for my success, result is a miserable failure and material loss of my Deposit amount and injury for me The public resented the silence of Government in giving a ruling out ~~of~~ of over I800 voters in the VIII Division only ~~one~~ about onethird voters exercised their votes and the remaining over two thirds concutious voters did not vote Further the Municipal Councillors did not meet on Ist Feb ,'43 though fixed for counting votes as the election was not in order all these go to show the system of election was defective and illegal

Hence Sec ,20 of the Act does not apply to the entire election which is defective and ~~x~~ illegal This section 20 applie only to the irregularity or malpractice against an individual candidate in any one particular election

In this connection I beg to state state that this is the first time in the history of General elections that an Harijan candidate as myself had contested a General seat and my defeat is due to the illegality in the system of election and most of the generous and sympathetic voters declined to vote on that account

Having regard to these facts, forfeiture of my Deposit amount under an illegal election is illegal In the circumstances I request that in the interest of fair play and justice you will be good enough to give a ruling on the illegality setting aside the election

I request that in the mean time the publications of the

~~these candidates~~ Election Election of

12/43

these candidates may be with-held till the question is finally in the gazette
settled as is done in the case of selection of president
and the Vice-president
Thanking you for immediate favourable orders

I beg to remain,
yours faithfully

Bangalore

Dated/0-2-43

A K Jayamukhaya
M L C

OFFICE OF THE JT. SECY
FOR L S G & P H
Date 29 JAN 1963
No 8 1675 21

SECY LAW DEPT
GOVT OF MYSORE

The Minister for Local Self Government
and Public Health,
Government of Mysore,
BANGALORE.

L S G DEPT

Respected Sir,

We presented an application on 21st instant detailing certain defects and illegality at the very outset in the system of the present Bye-Election of the Bangalore City Municipality wontonly brought in and praying in the circumstances explained therein to set aside the present Bye-Election so as to redress the material loss sustained by some of the contesting candidates and the public as well

We are at a loss to know that no orders have yet been passed in the matter, though the Bye-Election has been fixed to be held on 31st instant

It is not possible to go in an appeal in the proper court of law as the process of the appeal in the proper lower court in the first instance and then in the High Court if necessary, will be costly, laboriously long and protracted leading to litigation and ill-feelings between the parties in the public life Further as appeal in the court cannot be possibly decided soon and as the term of the present council of the Municipality is only about ten months, it is not advisable to prefer an appeal in the court

It is not the question of irregularity and corrupt practice against the contesting candidates at this stage, for which we have to preefer an appeal in the court

rather than the question of defects and illegality in the system of the present Bye-Flection wontonly followed at the very outset that has been brought to the notice of Governmen for orders and ruling in the matter.

The result of these wonton defects and illegalit in the system of Bye-Election, followed by intentionally fixing the 15th January43, the second working day instead of third working day on the 16th January 1943 Under Rule 15 (1) Election rules for hearing and disposing of objections against the candidates after the 12th January 1943 (14th January 43 being a General holiday) lead to the rejection of the applica tions of some competent candidates and to the retention of th applications of some other candidates who have no qualificati as voters. It was a serious handicap both to the contesting candidates and also to the public to file objections against the illegal candidature of some contesting candidates on 15th January 1943 after knowing the results of withdrawal of candidature on the 13th January 1943 as there was no time at all to ascertain certain information against the illegal candidature in the public or private offices and institutions on account of the intervening holiday on 14th instant, Thus, we are apt to state that the second working day i e, 15th January 1943 was intentionally fixed for hearing and disposin of objections against candidates with a view to avoid any objections against the illegal candidature of some interested candidates The rejection of candidature of Mr S Krishnapp Advocate candidate to the Second Division yesterday is one of the standing evidences to our statement made here.

This is the corrupt and illegal practice which has caused material loss and defeat to some candidates and we have brought it to the notice of Government to deal with it sternly and directly in the interest of the public

In the circumstances, we earnestly pray that such a corrupt practice in the affairs of the Municipality should be put down sternly by the Government alone by setting aside such an illegal election to establish fair play and justice

We trust that Government will safeguard the interest of the public and redress the material loss and grievances caused to the candidates and the public alike

We beg to remain,
Respected Sir,
Yours obediently,

Bangalore,
Dated 23th January '43

S Madadh

Ramaprasad

ఈ బొటనవేలిముద్ర

ఈ చూపుడు వేలి ముద్ర

ఈ మధ్య వేలి ముద్ర

నాగయ్య నాలుగు.

ఈ ఉంగరపు వేలి ముద్ర

-శ్రీ గోపాల్

ఈ చిటికెన వేలి ముద్ర

ఈ అరచేతి ముద్ర

ఈ ఎడమ చేతి ముద్ర

ఈ ముద్ర రాములు - తోటి

వి నుండి వ్యత్యయం

చిమ్మని చూపు

To

The Minister for Local Self Government
and Public Health,
Government of Mysore,
BANGALORE.

Respected Sir,

We presented an application on 21st instant detailing certain defects and illegality at the very outset in the system of the present Bye-Election of the Bangalore City Municipality wontonly ~~dropped~~ brought and praying in the circumstances explained therein to set aside the present Bye-Election so as to redress the material loss sustained by some of the contesting candidates and the public as well

We are at a loss to know that no orders have yet been passed in the matter, though the Bye-Election h been fixed to be held on 31st instant.

It is not possible to go in an appeal in the proper court of law as the process of the appeal in the proper lower court in the first instance and then in the High Court, if necessary will be costly, laborriously, long and protracted, leading to litigation and ill-feelings between the parties in the public life Further as appeal in the cannot be possibly decided soon and as the term of the present council of the Municipality is only about ten months, it is not advisable to prefer an appeal in the court.

It is not the question of irregularity and corrupt practice against the contesting candidates at this stage, for which we have to prefer an appeal in the court

rather than the question of defects and illegality in the system of the present Bye-Election wontonly followed at the very outset that has been brought to the notice of Government for orders and ruling in the matter

The result of these wonton defects and illegality in the system of Bye-Election, followed by intentionally fixing the 15th January43 the second working day instead of the third working day on the 16th January 1943 Under Rule 10 (1) of Election rules for hearing and disposing of objections against the canaidates after the 12th January 1943 (14th January 43 being a General holiday) lead to the rejection of the applications of some competent candidates and to the retention of the applications of some other candidates who have no qualifications as voters It was a serious handicap both to the contesting candidates and also to the public to file objections against the illegal candidature of some contesting candidates on 15th January 1943 after knowing the results of withdrawal of candidature on the 13th January 1943 as there was no time at all to ascertain certain information against the illegal candidature in the public or private offices and institutions on account of the intervening holiday on 14th instant , Thus, we are apt to state that the second working day i e , 15th January 1943 was intentionally fixed for hearing and disposing of objections against candidates with a view to avoid any objections against the illegal candidature of some interested candidates The rejection of candidature of Mr S. Krishnappa, Advocate candidate to the Second Division yesterday is one of the standing evidences to our statement made here.

This is the corrupt and illegal practice which has caused material loss and defeat to some candidates and we have brought it to the notice of Government to deal with it sternly and directly in the interest of the public

In the circumstances, we earnestly pray that such a corrupt practice in the affairs of the Municipality should be put down sternly by the Government alone by setting aside such an illegal election to establish fair play and justice

We trust that Government will safeguard the interest of the public and redress the material loss and grievances caused to the candidates and the public alike

SECY LAW DEPT

Copy of the above respectfully Submitted to the Law Secretary to Government of Mysore, Bangalore, for information & necessary action

We beg to remain,
Respected Sir,
Yours obediently,

Bangalore,
Dated 23rd January '13

S/7 adevaiah

GEN & REV SECRETARIAT

No Bangalore Feb. 1943.

From

The Secretary to the Government of His Highness the Maharaja of Mysore

To Law Department.

The Municipal Commissioner,
Bangalore City.

Sir

With reference to the correspondence ending with your letter No.C1-C.912/42 dated 29th January 1943 re the bye-election to the City Municipal Council held on 31st January 1943, I am directed to observe that you ought to have carried out the suggestions conveyed to you in this office letter No L.7440 dated 29th January 1943 in the matter

I have the honour to be,
Sir,
Your most obedient servant,

Secretary to Government,
Law Department

RS

D.O. No.

Dear Sir,

In connection with the recent bye-elections to the Bangalore City Municipal held on the 31st January 43, I am desired to state that through the irregularity in the preparation of the calendar of events which was brought to the notice of Govt was pointed out to you with a request in his office letter No L 7440 & dated 29th Dec 43 to rectify the same, before the elections were finally held but the latter was not received by you in time and so you were not able to take action in the matter. I am to point out that no heed was given to it before the polls and to request that you failed to have carried out the suggestions made to you in the letter referred to above.

Yours &c

To Above Azeez Khan Esqr, B.A.,
(Dy Commr, Bdore Dt)

Appendix F G —1]

SUBJECT

Section Ml

File No 120-42

Diary No of letter replied to

Serial No

Do No

General and Revenue Secretariat

( )

the *194*

To

Dear Sir,

In Connection with the recent bye-elections to the City Ml Cl, held on the 31st Jany 1943, I am desired to point out that you should have Carried out the instructions Conveyed to you ~~on this matter~~ in this office letter NoL7440 Dy 29-1-43 in the matter— when you were the Ml Commr, Bcsf—

Yours Sincerely

Date of issue

Signed by

List of enclos-----

Codied by

Examined by

To Abdul Aziz Khan, Esqr, BA
Dy Commr, Bangalore Dt,

WD C4161—GPB—60 000—24 10 41